

TRADEMARK
03220-N0115A ASC/MJS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of application
Serial No. 78/125,643 for POWER FORCE
Published in the Official Gazette on November 19, 2002

12-08-2003

S. Patent & TMO/TM Mail Rpt Dt. #58

RIDDELL, INC. and RIDMARK
CORPORATION,

Opposers,

v.

HUFFY CORPORATION,

Applicant.

Opposition No.: _____

Box TTAB-FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

NOTICE OF OPPOSITION

In the matter of an application to register a trademark under the Trademark Act of 1946, Serial No. 78/125,643, filed May 2, 2002 in the name of Huffey Corporation ("Applicant"), published in the Official Gazette of November 19, 2002 for the mark

Certification of Mailing: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Box TTAB WITH FEE, Assistant Commissioner of Trademarks; 2900 Crystal Drive; Arlington, VA 22202-3513.

March 11, 2003

Barbara North
Barbara North

"Power Force", Riddell, Inc. and Ridmark Corporation ("Opposers") believe they will be damaged by registration of said alleged trademark, and hereby oppose same. The grounds for opposition are as follows:

1. Riddell, Inc. is a corporation duly organized and existing under the laws of the State of Illinois, and having its address at 3670 North Milwaukee Avenue, Chicago, IL 60641.
2. Ridmark Corporation is a corporation duly organized and existing under the laws of the State of Delaware, and having its address at 3670 North Milwaukee Avenue, Chicago, IL 60641.
3. Opposers are engaged in the manufacture, distribution, marketing, sale, advertising and promotion of a variety of sporting goods and sports equipment.
4. Prior to the filing date of the application proposed herein, Opposers continuously have used the names and marks **POWER** and **POWER PAC** both with and without designs (hereinafter collectively referred to as the "**POWER Marks**") to identify and designate a variety of goods, including, but not limited to, sports equipment, and to distinguish those goods from those of others. Since Opposers' initial use of its **POWER** Mark(s), Opposers have continuously used, advertised, promoted and offered their goods under the **POWER Marks** to the public through various channels of trade in interstate commerce, with the result that customers have come to know and recognize Opposers' **POWER Marks** and to associate same with Opposers and/or the goods advertised, marketed, distributed, manufactured and/or sold by or on behalf of Opposers.

5. Opposers are the owners of, and will rely upon herein, the following U.S. trademark registrations:

MARK	REG. NO.	DATE	<u>GOODS/SERVICES</u>
POWER	1,537,482	2/5/87	Baseball equipment, namely catcher's protective equipment, namely facemask and shin guards; batting gloves; catcher's gloves; baseball fielder's gloves; baseball bats; softball bats; hockey equipment, namely shin guards, shoulder pads, hockey sticks, hockey gloves; balls, namely baseballs, volleyballs, soccer balls, softballs, and golf balls.
POWER	1,922,193	9/26/95	Athletic equipment, namely hockey protective pads for various parts of the body, namely shoulder pads, elbow pads, rib pads, spine pads, shin guards, and goalie cup supporters
POWER & Design	2,039,625	2/25/97	Baseball equipment, namely catcher's protective equipment, namely facemask and shin guards; batting gloves; catcher's gloves; baseball fielder's gloves; hockey equipment, namely shin guards, shoulder pads, hockey sticks, hockey gloves; balls, namely volleyballs, soccer balls.
POWER & Design	1,711,910	9/12/89	Athletic equipment, namely, football protective pads for various parts of the body, such as shoulder pads, chest pads and thigh pads.
POWER PAC	1,809,340	9/12/89	Athletic equipment; namely, football protective pads for various parts of the body, such as shoulder pads, chest pads, and thigh pads.

Each of the registrations listed above operates as *prima facie* and/or conclusive evidence of Opposers' ownership of the marks set forth therein and exclusive right to use

same in connection with the goods listed in those registrations. See 15 U.S.C. §§ 1065 and 1115(b).

6. Upon information and belief, on May 2, 2002, Applicant filed an application for registration of the mark "Power Force". Said application was assigned Serial No. 78/125,643 and was published for opposition in the Official Gazette of November 19, 2002 identifying the goods as basketball equipment, namely, basketballs in class 28.

7. The trademark sought to be registered by Applicant is a simulation and colorable imitation of, and is confusingly similar to, Opposers' aforesaid **POWER Marks**.

8. Upon information and belief, Applicant's goods are the same, similar, and/or related to Opposers' goods, and Applicant's goods are and/or will be advertised, promoted and/or sold through the same and/or similar channels of trade and to the same general class of purchasers as Opposers' goods offered and sold under Opposers' **POWER Marks**.

9. Upon information and belief, Opposers' customers, as well as the public in general, are likely to be confused, mistaken or deceived as to the origin and/or sponsorship of Applicant's products which are marketed, promoted and/or sold under, or in connection with, the opposed "Power Force" trademark sought to be registered by Applicant herein, and further, said persons are likely to be misled into believing that Applicant and/or Applicant's products are rendered by, emanate from, or in some way are, directly or indirectly, associated with or connected to Opposers Riddell, Inc. and/or Ridmark Corporation and/or their products, to the damage and detriment of Opposers.

10. Opposers believe that they will be damaged by the registration by Applicant of the "Power Force" trademark, as set forth in Applicant's application Serial No.

78/125,643, and that if registration on the opposed application is granted, and the presumptions accorded to such registration are conferred under the Trademark Act of 1946, as amended, Applicant will receive benefits to which it is not entitled, to the damage and detriment of Opposers, their **POWER** Marks and business.

WHEREFORE, Opposers respectfully request that:

- a. judgment for Opposers and against Applicant in the present opposition be entered;
- b. registration of application Serial No. 78/125,643 of Huff Corporation be rejected and refused; and
- c. the present opposition be sustained.

A duplicate copy of this Notice of this Opposition is enclosed herewith.

The filing fee of \$600.00 is enclosed herewith and any additional fees or deficiencies deemed to be due and owing in connection with this opposition

may be charged to Deposit Account No. 19-4516 and any overpayment may be credited thereto.

DATED: March 11, 2003.

Respectfully submitted,

By: 

Arlana S. Cohen, Esq.

Mark J. Speciner, Esq.

ST. ONGE, STEWARD, JOHNSTON & REENS, LLC

Attorneys for the Opposers

986 Bedford Street

Stamford, CT 06905-5619

(203) 324-6155

Case No. 03220-N0115A ASC/MJS/ban

Potential Opposer: Riddell, Inc. and Ridmark Corporation

Re: Applicant: Huff Corporation
SN: 78/125,643
Filed May 2, 2002
For: POWER FORCE

Receipt is hereby acknowledged of NOTICE OF OPPOSITION (in duplicate); check in the amount of \$300.00.

Mailed March 11, 2003

Assistant Commissioner
for Trademarks

Case No. 03220-N0115A ASC/MJS/ban

Potential Opposer: Riddell, Inc. and Ridmark Corporation

Re: Applicant: Huff Corporation
SN: 78/125,643
Filed: May 2, 2002
For: POWER FORCE

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03-14-2003

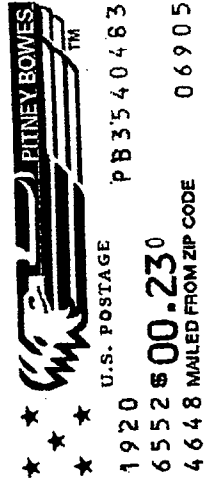
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Mailed March 11, 2003

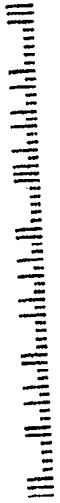
RECEIVED
St. Onge Steward Johnston & Reens

MAR 27 2003

FILE _____
DKT _____



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December 5, 2003



VIA FACSIMILE
202-308-9333
AND U.S. MAIL

12-08-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #58

Helen Johnson, Esq.
c/o Commissioner for Trademarks
BOX TTAB – NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513

Re: Our File 03220-N0115A
Opposition to Serial No. 78/125,643
Applicant: Huffy Corporation
Application For: POWER FORCE (Cl. 28)

Dear Ms. Johnson:

Further to our telephone conference, attached is a copy of the Notice of Opposition pertaining to the captioned trademark, and a copy of the postcard showing receipt by the TTAB. You informed me as well that the TTAB appears to have cashed our check of \$600.00. Please, therefore, attempt to pull this mark before it is registered and have the opposition instituted.

Please let us know if you have any other questions or need any additional information.

Sincerely,

Arlana S. Cohen
asc@ssjr.com

ASC/bn
Enclosures

New York (212) 730 4554
New Haven (203) 562 0400